

JENNY L. FOLEY, Ph.D., ESQ.

Nevada Bar No. 9017

E-mail: jfoley@hkm.com

DANA SNIEGOCKI, ESQ.

Nevada Bar No. 11715

E-mail: dsniegocki@hkm.com

HKM EMPLOYMENT ATTORNEYS LLP

1785 East Sahara, Suite 300

Las Vegas, Nevada 89104

Tel: (702) 805-8340

Fax: (702) 805-8340

E-mail: jfoley@hkm.com

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SERENA SENSITIVO, an Individual,

Plaintiff,

vs.

KATERRA INC., a foreign corporation,
DOES I -X; ROE CORPORATIONS I -X.

Defendant.

CASE NO.:

COMPLAINT AND JURY DEMAND

The Plaintiff SERENA SENSITIVO (“Plaintiff”) by and through her attorney, Jenny L. Foley, Ph.D., Esq. of HKM Employment Attorneys LLP hereby complains and alleges as follows:

JURISDICTION

1. This is an action for damages brought by Plaintiff for unlawful workplace discrimination based on race, color, sex, age, disability and/or national origin and for illegal retaliation under Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §2000e et seq.; for violation of Nevada Revised Statute §613.330 et seq.; and for certain claims brought pursuant to the Nevada Revised Statutes as outlined below.

2. This Court has primary jurisdiction over claims set forth herein pursuant to 28

1 U.S.C. § 1331 (federal question), 28 U.S.C. §1343(a) (4) (civil rights action) and 42 U.S.C.
2 §2000e-5(f) (3) (unlawful discrimination and retaliation in employment). Additionally, this
3 Court has supplemental jurisdiction over any state law claims pled herein pursuant to 28 U.S.C.
4 §1367.

5 3. Upon information and belief, all material allegations relative to the named
6 defendant contained in this Complaint occurred in the State of Nevada, Clark County.
7 Therefore, venue properly lies in the southern division of the United States Court for the District
8 of Nevada pursuant to 28 U.S.C. §1391(b)(2).

9 4. At all relevant times, Defendant was engaged in interstate commerce and
10 employed 20 or more employees for each working day during each of the 20 or more calendar
11 workweeks in the current or preceding calendar year, and are therefore subject to the provisions
12 of the statutes outlined herein.

13 **EXHAUSTION OF ADMINISTRATIVE REMEDY**

14 5. On or about May 25, 2020, Plaintiff initiated the process of filing a Charge of
15 Discrimination against her employer, the Defendant(s) named in this action with the Nevada
16 Equal Rights Commission and Equal Employment Opportunity Commission (“EEOC”).

17 6. On or about August 18, 2020, Plaintiff received her “Notice of Right to Sue”
18 from the EEOC.

19 7. Less than 90 days have passed since the date of mailing of the “Notice of Right
20 to Sue.” This action is timely filed pursuant to 42 U.S.C. § 2000e-5(f).

21 8. Prior to filing this action, Plaintiff exhausted her administrative remedy on all
22 claims pled hereunder.

23 **PARTIES**

24 9. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
25 fully set forth herein.

26 10. Plaintiff is a citizen of the State of Nevada and a resident of Clark County,
27 Nevada.

28 11. Defendant KATERRA INC. (“Defendant”) is, upon information and belief, a

1 foreign corporation authorized at all relevant times to conduct business in the State of Nevada.

2 12. Doe Defendants I through X inclusive and Roe Corporation Defendants A
3 through Z inclusive, are unknown at the present time and thus sued by Plaintiff in such fictitious
4 names. Plaintiff alleges that said Defendants are in some manner responsible for the damages
5 sustained by Plaintiff and that said Defendants will be named with peculiarity once their
6 identities are known. At such time, Plaintiff will seek leave of court to state more fully herein
7 the names and acts of said Defendants.

8 **GENERAL ALLEGATIONS**

9 13. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
10 fully set forth herein.

11 14. Plaintiff began working for Defendant on September 24, 2018, as a Materials
12 Engineer.

13 15. In approximately early October of 2019, Plaintiff began being sexually harassed
14 by a co-worker, Scotty Weber.

15 16. Mr. Weber started rumors that Plaintiff was having sexual relations with Tyson
16 Decambra, Mr. Decambra was a Framer/Carpenter employed by UCP Temp Staffing LLC., a
17 third-party staffing agency, who would work onsite with Plaintiff.

18 17. Further, Mr. Weber told Plaintiff that he was going to follow Plaintiff around
19 and see if she went to lunch with Mr. Decambra.

20 18. Mr. Weber also told several of Plaintiff's co-workers that he had seen
21 naked/intimate photos and/or videos of her. It is impossible for this to be true, but even if so, it
22 is entirely inappropriate for work.

23 19. In or around the end of October, beginning of November 2019, Plaintiff
24 requested to speak with Dana Sadler in Human Resources regarding the rumors that Mr. Weber
25 was continuously spreading about Plaintiff and her personal life, but Human Resources was
26 unable to meet with Plaintiff.

27 20. Several days later, Ms. Sadler contacted Plaintiff and was mainly asked
28 questions about Mr. Decambra.

(Sex Discrimination (Sexual Harassment) in Violation of Title VII and NRS 613.330)

32. During the course of her employment, Plaintiff was subject to an unwelcome vicious, extreme, outrageous, pervasive and unrelenting campaign of sexual harassment and

1 gender discrimination.

2 33. Mr. Weber continuously sexually harassed Plaintiff by first spreading rumors
3 that she was engaging in a sexual relationship with an individual from a third-party company,
4 stating that he would follow her around, and also claiming that he had seen naked/intimate
5 photos and/or videos of Plaintiff and told fellow co-workers.

6 34. The first time Plaintiff reported Mr. Weber's inappropriate conduct, she was
7 initially met with silence and then was predominately asked questions about her relationship
8 with Mr. Decambra.

9 35. When Mr. Weber returned to work, his harassment only escalated by claiming
10 that he himself was engaging in sexual activities with Plaintiff.

11 36. After Plaintiff reported Mr. Weber's conduct a second time, Defendant's
12 response was to "drop it," as in, Plaintiff should just ignore and/or acquiesce to the sexual
13 harassment.

14 37. Defendant also added that Plaintiff should avoid Mr. Weber. This suggestion not
15 only fails to address the underlying and ongoing harassment, but more importantly, it blames
16 Plaintiff for the sexual harassment and hostile environment created by Defendant, her co-
17 workers, and specifically Mr. Weber.

18 38. Thereby, Defendant affirmed, ratified and acquiesced in the campaign of sexual
19 harassment and hostile working environment.

20 39. The Defendant's behavior violated 42 U.S.C. § 2000e-2(a) by discriminating
21 against Plaintiff because of her sex, female.

22 40. Due to its illegal actions, Defendant must pay damages in an amount to be
23 determined at trial for back pay, front pay, lost benefits, and compensatory damages for
24 emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life.

25 41. Because Defendant is guilty of oppression, fraud or malice, express or implied,
26 Defendant must pay Plaintiff an additional amount for the sake of example and by way of
27 punishment.

28 42. Plaintiff has had to obtain the services of an attorney to protect her rights and

1 secure compensation for the damages incurred as a result of these violations of Title VII and
2 therefore, she is entitled to recover reasonable attorney's fees against Defendants pursuant to
3 42 U.S.C. §2000e-5(k).

4 **SECOND CAUSE OF ACTION**

5 **(Retaliation under Federal Law, 42 U.S.C. § 2000e-3 and NRS 613.340)**

6 43. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
7 fully set forth herein.

8 44. In violation of 42 U.S.C § 200e-3, Defendant retaliated against Plaintiff after she
9 complained of acts which she reasonably believed were discriminatory.

10 45. After Plaintiff reported Mr. Weber for a second time, she was told to "drop it,"
11 but Plaintiff struggled to continue performing her work in such a hostile environment.

12 46. A few weeks later, Plaintiff was terminated without having any disciplinary
13 actions taken against her and without a sufficient explanation.

14 47. The examples above also constitute retaliatory harassment and the creation of
15 an illegally hostile environment.

16 48. Plaintiff may be unaware of additional detrimental acts constituting retaliation
17 in that it harmed her in the workplace.

18 49. The actions and conduct by Defendant constitute illegal retaliation, prohibited
19 by federal statutes.

20 50. Due to its illegal actions, Defendant must pay damages in an amount to be
21 determined at trial for back pay, front pay, lost benefits, and compensatory damages for
22 emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life.

23 51. Because Defendant is guilty of oppression, fraud or malice, express or implied,
24 Defendant must pay Plaintiff an additional amount for the sake of example and by way of
25 punishment.

26 52. Plaintiff has had to obtain the services of an attorney to protect her rights and
27 secure compensation for the damages incurred when Defendant violated Title VII, and
28 therefore, she is entitled to recover reasonable attorney's fees against Defendant pursuant to

1 Title VII.

2 **THIRD CAUSE OF ACTION**

3 **(Intentional/Negligent Infliction of Emotional Distress)**

4 53. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
5 fully set forth herein.

6 54. Defendant's conduct toward Plaintiff was extreme and outrageous and caused
7 significant emotional harm, headaches, sleeplessness and various physical and mental distress.

8 55. Defendants' conduct was extreme, outrageous, and undertaken with either intent
9 or, reckless disregard for causing Plaintiff emotional distress.

10 56. Defendants had a duty to refrain from engaging in the hostile and retaliatory acts
11 as described above.

12 57. Defendants breached that duty.

13 58. Defendants intentional or negligent conduct was the legal, actual, proximate
14 cause of Plaintiff's extreme and/or severe emotional distress by engaging in the conduct
15 described herein.

16 59. Defendants must pay damages in an amount to be determined at trial but
17 exceeding \$25,000f for emotional pain, suffering, inconvenience, mental anguish and loss of
18 enjoyment of life because they engaged in illegal actions.

19 60. Because Defendants are guilty of oppression, fraud or malice, express or
20 implied, Defendants must pay Plaintiff an additional amount for the sake of example and by
21 way of punishment.

22 61. Plaintiff has had to obtain the services of an attorney to protect her rights and
23 secure compensation for the damages incurred as a result of these violations and therefore, she
24 is entitled to recover reasonable attorney's fees against Defendants.

25 **WHEREFORE**, Plaintiff prays this court for:

26 a. A jury trial on all appropriate claims;

27 and to enter judgment in favor of the Plaintiff by:

28 b. Awarding Plaintiff an amount sufficient to fully compensate her (including tax

consequences) for all economic losses of any kind, and otherwise make her whole in accordance with Nevada law;

e. An award of compensatory and punitive damages to be determined at trial;

f. An award of attorney's fees and costs; and

g. Any other relief the court deems just and proper.

Dated this 12th day of November, 2020.

Respectfully submitted,

HKM EMPLOYMENT ATTORNEYS, LLP

By: /s/ Jenny L. Foley

JENNY L. FOLEY, PHD., ESQ.

Nevada Bar No. 9017

E-mail: jfoley@hkm.com

1785 East Sahara, Suite 300

Las Vegas, Nevada 89104

Tel: (702) 805-8340

Fax: (702) 805-8340

Attorney for Plaintiff